



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE NO. 593 OF 2014

PETER OCHOLI

CLAIMANT

v

CHAIRMAN, BOARD OF MANAGEMENT,

AFRAHA HIGH SCHOOL

RESPONDENT

RULING NO. 2

1. This Cause was initially dismissed on 13 February 2015 because of the Claimant's and/or his advocate's failure to attend in response to a show cause notice.
2. On 26 February 2015, the Claimant moved Court to reinstate the Cause, and in a ruling rendered on 15 May 2015, the Court declined to exercise its discretion to reinstate the Cause.
3. On 11 May 2017, the Claimant again moved Court seeking
 1. **THAT** the Order of the Honourable J RADIDO in the NAKURU E & LR CAUSE NO. 593 OF 2014 dismissing the claimant's suit herein together with all other consequential Orders be reviewed varied and/or set aside.
 2. **THAT** the Claimant's suit be reinstated for hearing.
 3. **THAT** the costs of this application be provided for.
4. The Respondent filed a replying affidavit in opposition to the application and the Court heard oral arguments on 10 July 2017.
5. The Court has considered the application and the submissions and come to the conclusion that the application is incompetent and an abuse of the court process.
6. This Court already rendered itself on an application seeking the setting aside of the order dismissing the Cause and reinstatement of the same onto the Court's docket.
7. In terms of the hierarchical nature of the judicial organ in Kenya, the Claimant ought to have appealed against the said ruling if he was dissatisfied or felt the Court exercised its discretion injudiciously.
8. Further, the proposed order seeking review is but just another way of attaining what the Court declined on 15 May 2015.

9. The Court further notes that the instant application seeking review has been presented nearly 2 years after the order/ruling sought to be reviewed without any explanation at all for the interregnum.

10. The Court declines the invitation by the Claimant and dismisses the motion dated 2 May 2017 with costs to the Respondent.

Delivered, dated and signed in Nakuru on this 6th day of November 2017.

Radido Stephen

Judge

Appearances

For Claimant Ms. Kiberenge instructed by Geoffrey Otieno & Co. Advocates

For Respondent Mr. Ooga instructed by Rodi Orege & Co. Advocates

Court Assistants Nixon/Martin